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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

ARNOLD KREEK, Individually And On Behalf
Of All Others Similarly Situated,

Plaintiffs,

vs.

WELLS FARGO & COMPANY, WELLS
FARGO FUNDS MANAGEMENT, LLC,
WELLS FARGO FUNDS TRUST, WELLS
FARGO DISTRIBUTORS, STEPHENS, INC.,
WELLS FARGO BANK, N.A.,

Defendants.

Case No. CV 08-1830 JSW

**ADMINISTRATIVE MOTION TO
CONSIDER WHETHER CASES
SHOULD BE RELATED AND
TRANSFERRED**RONALD SIEMERS, Individually And On
Behalf Of All Others Similarly Situated,

Plaintiffs,

vs.

WELLS FARGO & COMPANY, H.D. VEST
INVESTMENT SERVICES, LLC, WELLS
FARGO INVESTMENTS, LLC, WELLS
FARGO FUNDS MANAGEMENT, LLC,
WELLS CAPITAL MANAGEMENT, INC.,
STEPHENS, INC., WELLS FARGO FUNDS
DISTRIBUTOR, LLC, AND WELLS FARGO
FUNDS TRUST,

Defendants.

Case No. CV 05-04518 WHA

1 Pursuant to Civil Local Rule 3-12(b), Plaintiffs, by and through their counsel, hereby submit
2 this Administrative Motion requesting consideration of whether the two cases listed below are
3 related and should therefore be assigned to the same judge:

- 4 (1) *Kreek v. Wells Fargo & Co., et al.*, Case no. CV 08-01830 JSW (“*Kreek* action”);
5 and
6 (2) *Siemers v. Wells Fargo & Co., et al.*, Case No. CV 05-04518 WHA (“*Siemers*
7 action”).

8 The *Siemers* action has been presiding in front of Judge William H. Alsup for approximately
9 two and a half years. Final approval of the settlement and final judgment in the *Siemers* action were
10 entered on February 5, 2008. Plaintiffs in the *Kreek* action filed their complaint in the Northern
11 District of California on April 4, 2008. The actions allege the same facts against several of the
12 same defendants but the *Kreek* action was brought on behalf of purchasers of Wells Fargo mutual
13 funds not included in the class certified in the *Siemers* action. As set forth in greater detail below,
14 the two actions are related within the meaning of Civil Local Rule 3-12 and should be assigned to
15 the same judge.

16 Local Rule 3-12 provides that an action is related to another when: “(1) [t]he actions concern
17 substantially the same parties, property, transaction or event; and (2) [i]t appears likely that there
18 will be an unduly burdensome duplication of labor and expense or conflicting results if the cases are
19 conducted before different Judges.” The *Siemers* and *Kreek* actions satisfy both of these prongs and
20 should therefore be related.

21 The first prong of 3-12 is satisfied. Both actions are brought on behalf of a class of
22 individuals who purchased Wells Fargo mutual funds and both name several of the same
23 defendants, Wells Fargo and various subsidiaries of Wells Fargo. Both actions allege the same set
24 of core facts: that defendants allegedly engaged in a kickback scheme by creating a revenue-sharing
25 agreement with brokerages and selling agents who sold Wells Fargo mutual funds. The events in
26 question in both the *Siemers* action and the *Kreek* action are virtually identical, the only difference
27 being the specific funds in which the scheme was perpetrated. Moreover, the mutual funds at issue
28 in *Kreek* were initially part of the mutual funds in *Siemers*. Furthermore, the *Kreek* action

1 specifically notes that the case is premised on the facts alleged in the *Siemers* action. Finally, both
2 actions allege violations of the federal securities laws and seek the same relief.

3 The second prong of 3-12 is also satisfied. Because the actions involve several of the same
4 defendants, the same set of core facts and the same causes of actions and requests for relief, the
5 *Kreek* action will require adjudication of common legal and factual issues that were raised in the
6 *Siemers* action. Furthermore, duplication of labor and expense will result from assigning the *Kreek*
7 action to a judge other than Judge William H. Alsup, who is already familiar with the factual and
8 legal issues in the *Siemers* action. Having the actions conducted before two different judges would
9 also pose the risk of conflicting results.

10 Plaintiffs have conferred with Defendants, who, while denying the allegations set forth
11 above, do not oppose this motion.

12 Plaintiffs therefore respectfully request that the actions be deemed "related" to each other
13 and assigned to Judge William H. Alsup pursuant to Local Rule 3-12(f).

14
15 DATED: April 14, 2008

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19 - and -

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